



At the time this claim was filed, claimant sought permanent disability benefits as well as medical benefits for an injury to her feet with symptoms beginning in July 1991. By the time claimant testified at her regular hearing, she indicated she was not claiming permanent injury. Claimant did, however, ask for medical treatment. The Administrative Law Judge denied that medical treatment, finding that claimant failed to establish that her injury arose out of and in the course of her employment. The issue on appeal is, therefore, whether claimant's injury to her feet did arise out of and in the course of her employment.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Appeals Board finds that claimant has established that her injury to her feet probably or most likely was aggravated by her work for respondent and that she is entitled to medical treatment for that injury.

Claimant testified that her feet started hurting in July 1991 when she was working as a package car delivery person for United Parcel Services. Her feet hurt when she got in and out of the truck and when she walked fast. She testified that the more she walked the more it hurt. Although there is disagreement about the precise amount of walking required and the nature of the route she may have been working at that time, it seems clear from the record that claimant's duties for respondent did include substantial walking in the course of delivery of packages as well as getting in and out of the truck.

Claimant reported the problem with her feet to her supervisor who then set an appointment with the company doctor. The company doctor referred her to Dr. Kraus. However, United Parcel Service would not let her off work for medical treatment and would not pay for medical treatment because it did not consider the problem with her feet to be work related. Dr. Kraus, a podiatrist, first saw claimant on August 24, 1992, with complaints of heel pain in her left foot and pain in the arch region. He testified that his clinical examination that day indicated that she had plantar fasciitis, a tenderness of the muscles in the plantar of the aspect foot. She also had pain on palpation where normally a heel spur might develop. Dr. Kraus next saw claimant on August 31, at which time both heels were hurting. Dr. Kraus had previously recommended taping of the ankle and claimant found she obtained some relief from that conservative treatment. He saw her again on September 14, 1992. Dr. Kraus had made her a temporary orthotic which did provide some relief. He told her that as long as the orthotic was correcting the problem she should be conscientious about wearing it and return if the symptomatology increased. He did see her again on September 23, 1992, again for complaints of the left heel and at this time right great toe joint. The doctor indicated he explained to the claimant that with the heel hurting she would shift her balance and this could cause the toe problem. He gave her ultrasound and again taped the foot. On September 30, 1992, Dr. Kraus saw claimant for pain on the ball of her foot. Dr. Kraus indicated it was common for people with problems with their heels to shift weight to the ball of the foot and the whole foot would hurt.

Dr. Kraus did not see claimant again until January 1993. At that time Dr. Kraus told her she needed to lose some weight, that she should stay in good shoes, and to step in and out of the truck rather than jumping even when she was in a hurry. He saw her for the last time on February 10, 1993. At that time she was complaining of pain in the ball of her right foot underneath the second metatarsal head. She also had a bunion on the same foot. Dr. Kraus testified that the area was less stable and she would carry more weight on the second metatarsal head. That was the reason for the pain in that area. He testified

that the bunion would have occurred with or without the heel pain. He also indicated that at that time she was not having complaints of pain in the heel.

The sole question to be determined on this appeal is whether claimant's work caused, aggravated, accelerated or intensified claimant's problems with her feet such that respondent should be required to pay for the medical treatment. See Harris v. Cessna Aircraft Co., 9 Kan. App. 2d 334, 678 P.2d 178 (1984). Claimant testified that her feet hurt when she walked and hurt when she got in and out of the truck. She testified that the more she worked, the more it hurt. She also testified that the faster she worked, the more it hurt. Dr. Kraus was asked a series of questions which related to the relationship between claimant's work and the problems with her feet. The questions, and consequently the answers, do not go as directly as one might prefer to this issue. Dr. Kraus did testify that the symptoms were consistent with her work activities and that those activities could cause the symptoms. He testified further that walking would cause these conditions to get worse. With regard to the bunion, while he indicates that the bunion would have eventually occurred in any event, he also testified that her activities at work would aggravate a bunion deformity. He prescribed an orthotic device to be worn while she works and he recommended alterations in the manner in which she works. He agreed that her weight could have been a factor in causing the symptoms but indicated he could not separate into percentages the relative contributions of the weight and work activities. The testimony on this point suggests that he considered both to combine as factors in causing the problems. From the evidence, the Appeals Board finds that more probably than not the claimant's work did cause, aggravate, accelerate or intensify the problems in her feet. The Appeals Board therefore finds that the respondent should be required to provide for the medical examination and treatment to her feet.

### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award of January 27, 1994, by Administrative Law Judge George R. Robertson, should be, and hereby is, reversed and respondent is ordered and required to pay reasonable medical expenses for treatment of claimant's feet for the period of July 1991 through the last treatment provided by Dr. Kraus on February 10, 1993.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August, 1994.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

- c: James M. McVay, PO Drawer 1110, Great Bend, KS 67530  
Jerry Ward, PO Drawer 2005, Great Bend, KS 67530  
George R. Robertson, Administrative Law Judge  
George Gomez, Director